

OFFICE OF THE  
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STATE OF ALABAMA

SEP 25 1989

Honorable Don Hale  
Member, State Senate  
District No. 4  
409 2nd Avenue, S.W.  
Cullman, Alabama 35055

Municipalities - Contracts -  
Funds

City may not guarantee  
repayment of a private loan to  
an individual regardless of the  
purpose for which the loan  
proceeds will be used.

Dear Senator Hale:

This opinion is issued in response to your request for an  
opinion from the Attorney General.

QUESTION

In the Attorney General's Opinion issued  
June 16, 1989, your office concluded that  
the City could:

(1) lease property, pave it, use it for a  
cruising park and be reimbursed for the cost  
of the paving at the expiration of the lease  
term; or

(2) enter into a contract with an  
individual to provide a recreational  
cruising area and it could expend \$50,000.00  
- \$75,000.00 to pave the area, if that sum  
constitutes adequate consideration.

The City Council now desires to enter into  
an agreement with an individual whereby the  
individual would agree to provide a public  
recreational cruising park for a period of  
five years. Unlike the earlier proposal, no  
initial municipal expenditures would be

required and in all likelihood no municipal expenditure will be required in the future. As consideration for the contract, the City would agree to guarantee repayment of those funds borrowed by the individual for use in paving the cruising park in an amount up to \$100,000.00. The individual would also agree that he would not permit any security interest lien, or other encumbrance to remain on the cruising park property which exceeds 80% of the fair market value of the property. The individual would also agree to indemnify the City for any sums expended by the City in the event he should default. A photocopy of the proposed agreement is enclosed herein. I would very much appreciate your examining this agreement and rendering an opinion as to the legality of the course of action contemplated by the City of Cullman.

#### FACTS AND ANALYSIS

The first thing that comes to mind are the provisions of Constitution of Alabama 1901, Section 94, as amended. That section states that no city may lend its credit or grant a thing of value in aid of an individual, association or corporation. It is the opinion of this office that the Section 94 prohibition against the lending of credit prohibits the City of Cullman from guaranteeing a private loan regardless of the purpose for which the proceeds will be used.

#### CONCLUSION

City may not guarantee repayment of a private loan to an individual regardless of the purpose for which the loan proceeds will be used.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

DON SIEGELMAN  
Attorney General

By:



CAROL JEAN SMITH  
Assistant Attorney General